



May 17, 2013

Office of the Comptroller of the Currency [Docket ID OCC-2013-0003]
Board of Governors of the Federal Reserve System [Docket No. OP-1456]
Federal Deposit Insurance Corporation

SENT VIA EMAIL

Re: Community Reinvestment Act: Interagency Questions and Answers Regarding Community Reinvestment

Dear Sir or Madam:

The Native CDFI Network (NCN) is a coalition of Native community development financial institutions and partners that advances policy for Native inclusion and economic opportunity, promoting access to capital and peer learning for Native CDFI's. Formed in 2009, the organization unifies Native CDFIs serving American Indian, Alaska Native, and Native Hawaiian communities. Its purpose is to create opportunities to share our stories, identify our collective priorities, and strengthen our industry.

We are pleased to respond to the Agencies' request for comments on their **Interagency Questions and Answer Regarding Community Reinvestment** published in the Federal Register on March 18, 2013. This comment letter provides one general recommendation about strategies to improve the applicability of the Community Reinvestment Act in Indian Country and specific feedback on five of the proposed Questions and Answers (Q&A's).

Background

The limited access to basic financial services in Native communities highlights the work left to be done to connect Native people to the benefits of the American financial system. A recent FDIC study revealed that 41.3% of American Indian and Alaska Native households are underbanked, and 14.5% of American Indian and Alaska Native households are completely unbanked.¹

These figures are explained – in part – by the findings of the 2001 Native American Lending Study conducted by the Department of the Treasury's CDFI Fund. The Study found that the primary financial services challenge facing Native people is that services are often completely absent. Eighty-six percent of Native communities lack access to a single financial institution (with a broad definition that included a simple ATM), and 15 percent of our community members need to travel



over 100 miles to access a financial institution.² The twelve-year-old study is also indicative of the need to better include tribes in conversations about the CRA because, as the most comprehensive study of lending needs in Native communities, it does not even mention the Community Reinvestment Act.³ The Study also identified the economic impact of underserved Native communities. It estimated an unmet capital need in Native communities of \$44 billion.⁴

The Native CDFI Network is a passionate advocate for the effectiveness of Native CDFIs in connecting Native people to the financial services they so desperately need. Since its inception in 2002, the CDFI Fund's Native Initiatives program has grown the Native CDFI field from nine certified Native CDFIs in 2001 to 72 certified Native CDFIs today, with another 60 Native CDFIs preparing for certification. These institutions are critical partners for financial institutions to engage in serving residents of Indian reservations and other Native communities. The Native CDFI industry's rapid growth shows both the need and the robust demand for financial services from Indian Country.

General Recommendation

Financial institutions with American Indian, Alaska Native, and Native Hawaiian communities in their assessment area are faced with a challenging market to serve. The geographic boundaries of Indian reservations, confusion about tribal sovereignty, and an historic lack of access to credit and financial services have caused many financial institutions to overlook these potential market segments. Often banks and bank examiners alike may have the unintended consequence of completely ignoring Native communities during CRA assessments due to a lack of understanding about the market, trust status of the land, and legal jurisdictions. Notwithstanding these challenges, it was to ensure that financial institutions served these hard-to-reach segments of their service area that Congress enacted the CRA in 1977.

In order to mitigate this confusion and resulting exclusion of Native communities, NCN recommends that the Agencies initiate an interagency working group that involves consultation with tribes and tribal organizations like the National Congress of American Indians and the Native CDFI Network to identify strategies to ensure that CRA's purpose is met with respect to financial institutions serving Native communities. Native CDFIs are successfully serving Native communities and their efforts could be bolstered through stronger partnerships with financial institutions. The Native CDFI Network would be pleased to assist to facilitate such a consultative process.



Specific Recommendations

1. § .12(h) – 6: Must there be some immediate or direct benefit to the institution’s assessment area(s) to satisfy the regulations’ requirement that qualified investment and community development loan or services benefit an institution’s assessment area(s) or a broader statewide or regional area that includes the institution’s assessment area(s)?

Investments in Native CDFIs benefit regional areas and should receive full consideration when evaluating whether community development activities are being conducted in lieu of, or to the detriment of, activities in the institution’s assessment area(s).

2. § .12(h) – 7: What is meant by the term, “regional area”?

The Agencies ask whether the proposed definition of “regional area” is sufficiently clear and appropriately flexible. We think the definition could be enhanced by including the following language in bold below.

A7. A “regional area” may be an intrastate area or a multistate area, **including an Indian reservation**, that includes the financial institution’s assessment area.

An Indian reservation is a federally recognized geographic designation and definitely has geographic, demographic and economic interdependences as described in the Q&A. By including Indian reservations in the definition of “regional area” it makes it clear that financial institutions with Indian reservations in the state in which the institution has an investment area(s) would receive positive consideration for its community development activities in that Indian reservation community.

3. § .12(g)(2) – 1: Community development includes community services targeted to low- or moderate-income individuals. What are examples of ways that an institution could determine that community services are offered to low- or moderate-income individuals?

The Agencies asked if there are other commonly used proxies for low- and moderate-income (LMI) that should be specifically included in the Q&A. We urge the Agencies to include long-term unemployment as a proxy for assessing LMI communities. The Department of Interior’s Bureau of Indian Affairs publishes a report called the American Indian Population and Labor Force Report which provides a summary of the eligible working population on Indian reservations that is unemployed, underemployed, or has given up looking for work. The report also includes statistics about residents of Indian reservations who are employed but remain in poverty.



Another example of ways in which an institution could determine that the community services are targeted to low- or moderate-income persons is:

- The community service is targeted to low- and moderate-income residents of an Indian reservation.

As noted above, according to the CDFI Fund's Native American Lending Study, 86 percent of Native communities lack access to a single financial institution. There should be no question that an institution's community services on an Indian reservation are targeting the intended audience.

4. § .22(b)(4) – 2: How do examiners consider community development loans in the evaluation of an institution's record of lending under the lending test applicable to large institutions?

If a financial institution's assessment area is in a state with an Indian reservation, and the institution has no community development lending on that reservation, then this lack of community development lending performance should have a negative impact on the institution's lending test rating.

Furthermore, if an institution is not providing qualified investments, and community development lending or services on an Indian reservation or in any other Native community in the state in which it has an assessment area(s), there is no way that institutions should receive an "Outstanding" CRA rating.

5. § .21(f) – 1: The CRA provides that, in assessing the CRA performance of non-minority- and non-women-owned (majority-owned) financial institutions, examiners may consider as a factor capital investments, loan participations, and other ventures undertaken by the institutions in cooperation with minority- or women-owned financial institutions and low-income credit unions (MWLIs), provided that these activities help meet the credit needs of local communities in which the MWLIs are chartered. Must such activities also benefit the majority-owned financial institution's assessment area(s)?

We urge the Agencies to expand the applicability of this Q&A to include CDFIs and especially **Native** CDFIs. By statute, CDFIs must serve the low- and moderate-income communities referred to in the CRA. Both the statutory requirements and the actual performance of Treasury certified CDFIs support the addition of CDFIs to the issue covered by the Q&A and the current proposal.

CDFI certification is a designation conferred by the Department of the Treasury's CDFI Fund. As a certified CDFI, a financial institution must demonstrate that it has a primary mission of promoting community development; that it provides financial products and development services to designated



distressed or underserved target markets; and that it maintains accountability to these markets. In addition, a Native CDFI is an entity that primarily serves a Native community (meaning, at least 50 percent of its activities are directed toward serving Native Americans, Alaska Natives and/or Native Hawaiians).

Thank you once again for this opportunity to provide our comments. NCN looks forward to working with the Agencies to ensure that the Community Reinvestment Act encourages financial institutions to serve the credit and financial services needs of Indian Country.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tanya Fiddler".

Tanya Fiddler
NCN President

A handwritten signature in blue ink, appearing to read "David Fleming, Sr.".

David Fleming, Sr.
NCN Policy Committee Chair

¹ 2011 FDIC National Survey of Unbanked and Underbanked Households (September 2012), accessed at http://www.fdic.gov/householdsurvey/2012_unbankedreport.pdf, p.15.

² Department of the Treasury, (2001) Native American Lending Study, http://www.cdfifund.gov/docs/2001_nacta_lending_study.pdf

³ Treasury 2001

⁴ Treasury 2001